

OFFICE OF GENERAL COUNSEL

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MEMORANDUM

OCT 14 1994

TO: Chief, Dockets Division

FROM: Associate General Counsel, Litigation Division

SUBJECT: Association of Independent Designated Entities and David Meredith v. FCC & USA, No. 94-1641. Filing of a new Petition for Review in the United States Court of Appeals for the District of Columbia Circuit

DATE: October 12, 1994

Docket No(s). PP 93-253

File No(s).

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

This is to advise you that on September 26, 1994, Association of Independent Designated Entities and David Meredith, filed a Section 402(a) Petition for Review in the District of Columbia Circuit of the FCC decision: In the Matter of Implementation of Section 309(j) of the Communications Act - Competitive Bidding, FCC 94-215, released August 15, 1994.

Petitioners seek review of the Order amending certain rules governing the use of competitive bidding to select between mutually exclusive applications in various radio services.

Due to a change in the Communications Act, it will not be necessary to notify the parties of this filing.

The Court has docketed this case as No. 94-1641 and the attorneys assigned to handle the litigation are John Ingle and James Carr.


Daniel M. Armstrong

cc: General Counsel
Office of Public Affairs
Shepard's Citations

United States Court of Appeals
For the District of Columbia Circuit

REC'D SEP 26 1994

RON GARVIN
CLERK

In The
UNITED STATES COURT OF APPEALS
For The District Of Columbia Circuit

United States Court of Appeals
For the District of Columbia Circuit

Association of Independent Designated Entities)
and)
David Meredith)
Petitioners,)
v.)
Federal Communications Commission)
and United States of America,)
Respondents.)

FILED SEP 26 1994

RON GARVIN
CLERK

94-1641

Case No. _____

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PETITION FOR REVIEW

The Association of Independent Designated Entities ("AIDE") and Mr. David Meredith, individually and as a member of AIDE, by their attorney hereby jointly petition this Court for review of the Second Memorandum Opinion and Order of the Federal Communications Commission ("FCC") in the proceeding Implementation of Section 309(j) of the Communications Act - Competitive Bidding, 9 FCC Rcd _____ (FCC 94-215, released August 15, 1994) (PP Docket 93-253) ("Second Memorandum Opinion and Order"). A copy of the Second Memorandum Opinion and Order is attached. A summary of the Second Memorandum Opinion and Order was published in the Federal Register, 59 FR 44272 (August 26, 1994).

This Petition is filed pursuant to 28 U.S.C. §§ 2342, 2344; Section 402(a) of the Communications Act of 1934, as amended, 47 U.S.C. § 402(a); and Rule 15 of the Federal Rules of

Appellate Procedure. Venue lies in this Court pursuant to 28 U.S.C. § 2343.

In the Second Memorandum Opinion and Order, the FCC adopted and amended certain rules governing its use of competitive bidding (auctions) to select between mutually exclusive applications in various radio services. One significant effect of those rules is to prohibit pre-auction settlements between mutually exclusive applicants, a result inconsistent with the competitive bidding provision of the Communications Act, 47 U.S.C. §309(j). The Commission's auction rules are unreasonable, arbitrary and capricious, and in violation of the Communications Act.

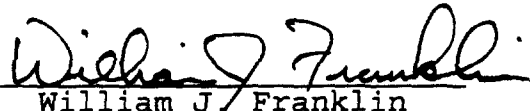
AIDE is an unincorporated association, with membership limited to persons and entities likely to be classified as "Designated Entities" under the Communications Act, 47 U.S.C. § 309(j). AIDE was formed for the purpose of representing the interests of designated entities before the FCC. AIDE actively participated in the proceeding below, and the interests of AIDE and its members is directly affected by the rules adopted in the Second Memorandum Opinion and Order.

Mr. Meredith is a member of AIDE. He directly and indirectly holds numerous interests in FCC-licensed radio systems. He presently intends to participate in the Commission's auction process.

AIDE and Mr. Meredith request that the Court review the Second Memorandum Opinion and Order and the FCC's auction rules and set them aside on the grounds that they are unlawful under the Communications Act, are arbitrary, capricious, an abuse of discretion, unsupported by substantial evidence and reasoned analysis, and are otherwise contrary to law.

Respectfully submitted,

Association of Independent
Designated Entities
David Meredith

By 
William J. Franklin
DC Bar No. 939785
Their Attorney

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September 26, 1994